MASS. SS1.2: C49/2 V

UMASS/AMHERST
312066016538882

# CITIZEN'S PRIMER ON TOWN MEETING

DOCUMENTS COLLECTION
UNIVERSITY LIBRARY
UNIVERSITY OF MASSACHUSET
AMHERST MA 01003

RECEIVED
MAY 30 1996
DOCUMENTS
COLLECTION

by Kenneth Bresler

*Published by:* William Francis Galvin, Secretary of the Commonwealth

$1.05

TOWNMEETINGPRIMR

**Town meetings are to liberty what primary schools are to science; they bring it within the people's reach, they teach men how to use and how to enjoy it.**

-- Alexis de Tocqueville

**The most important office...is that of private citizen.**

-- Louis Brandeis

Digitized by the Internet Archive
in 2014

https://archive.org/details/citizensprimeron00bres

## INTRODUCTION

The history of Town Meetings is the history of liberty in Massachusetts.

Massachusetts residents began holding Town Meetings over 350 years ago, shortly after the Puritans arrived from England, seeking liberty.

One reason that Massachusetts colonists revolted against Great Britain was the British attempt to ban most Town Meetings except by permission. In 1774, British soldiers tried to stop a Salem Town Meeting in progress, but the citizens barred the door of their town house and continued to meet.

On the American Revolution's first day of fighting, members of the Lexington militia gathered on the town common at around 2:00 in the morning on April 19, 1775. There they held an impromptu open-air Town Meeting to "consult what might be done" about the British soldiers marching from Boston, as the local minister later wrote.

Attending Town Meetings was once mandatory for freemen who owned land. Some towns fined eligible citizens who did not attend. But now attendance at many Town Meetings has fallen off.

While some towns do provide their citizens with written primers to Town Meeting, until now, not all citizens who moved to Massachusetts from states without Town Meetings had a primer on this venerable form of government. Not all citizens who moved within Massachusetts, from cities to towns, had a primer. Not all citizens who lived in towns, but did not attend Town Meetings because they did not know how to participate, had a primer on Town Meeting.

The purpose of this publication, *Citizen's Primer on Town Meeting*, is to rectify that situation. This primer encourages town residents to participate in Town Meetings, which the seal of the Town of Danvers calls "the strongest of all citadels of civil liberty, the purest of all democracies."

## TOWN MEETINGS: THE BASICS

***What is a Town Meeting?***

A Town Meeting is both an *event* and an *entity*. As an event, it is a gathering of a town's eligible voters, and is referred to as "*the* Town Meeting." As an entity, it is the legislative body for towns in Massachusetts, and is referred to simply as "Town Meeting." So you may say, "I went to *the* Town Meeting. Town Meeting approved the budget."

***Do cities have Town Meetings?***

No. A city's legislative body is called a city council or a board of aldermen. Citizens do not govern a city directly through a Town Meeting.

***What's the difference between cities and towns? Size?***

Municipalities decide whether to have a city or town form of government. Size is one factor in the decision. Some large municipalities have retained the town form of government. Some smaller municipalities have chosen to become cities.

***What does Town Meeting decide?***

Town Meeting decides three major things. 1. It elects the town's officers, paid and unpaid, and sets the salaries for the paid positions. 2. It votes to appropriate money to run the town. 3. It votes on the town's local statutes, which are called by-laws.

## OPEN TOWN MEETINGS and REPRESENTATIVE TOWN MEETINGS

***What's an open Town Meeting?***

An *open* Town Meeting means that all of the town's voters may vote on all matters.

***What's a representative Town Meeting?***

In a *representative* Town Meeting, also called a *limited* Town Meeting, all of the town's voters may vote for the town's officers and what are called *Town Meeting Members*. After the voters elect the Town Meeting Members, the Town Meeting Members conduct and vote on the rest of the Town Meeting's business.

***Other than who may vote, do open Town Meetings basically operate the same way as representative Town Meetings?***

Yes.

***How many Town Meeting Members does a representative Town Meeting have?***

Most have around 240 members. The number varies from 45 to over 250.

It depends on a town's by-laws, which are the local statutes. The by-laws of some towns establish a set number of Town Meeting Members. The by-laws of other towns establish a ratio, such as one Town Meeting Member for every 90 voters.

Some towns' charters also govern the number of Town Meeting Members. A charter is the document that establishes a town's governmental structure.

***How is it determined whether a town has an open Town Meeting or a representative Town Meeting?***

Towns with fewer than 6,000 voters must have an open Town Meeting. Towns with more than 6,000 voters may adopt either form of Town Meeting at their discretion.

***How are Town Meeting Members elected?***

By precinct. Towns have as few as three precincts, and as many as 10 or more.

The term for Town Meeting Members is three years. The term of one third of the members expires each year.

***Are Town Meeting Members elected by party?***

No. Elections are nonpartisan. The party affiliation of a candidate for Town Meeting Member does not appear on the ballot distributed at the Town Meeting.

***How do I run for Town Meeting Member?***

Some towns hold general elections. Citizens go their usual polling places and vote for Town Meeting Members, well before the Town Meeting begins.

In other towns, citizens elect Town Meeting Members at the Town Meeting itself. If you are interested in running, you need to circulate nomination papers *before* the Town Meeting. See the Massachusetts General Laws, chapter 43A, section 6 for more details. You cannot show up at the Town Meeting and decide then and there to run for Town Meeting Member.

## OFFICERS

*What's a moderator?*

Generally, a moderator's job is to run the Town Meeting. Specifically, the moderator declares the outcome of all voice votes. Some towns have detailed by-laws governing Town Meeting procedure. Other towns leave a lot of discretion to the moderator.

Moderators are elected either at the Town Meeting itself, or in general elections, in which citizens go to their regular polling places before the Town Meeting. The term of office is one or three years.

*What's a selectman or selectwoman?*

Selectmen are a town's executive officers. Voters elect them to the Board of Selectmen, which usually has three members, and sometimes five. In small towns, the Board of Selectmen runs the town and supervises town workers. In larger towns, the Board of Selectmen picks and supervises the town manager, who, in turn, runs the town and supervises town workers. In some towns, the town manager is called the executive secretary or administrative secretary.

*What does the town clerk do?*

At the Town Meeting, the clerk records all votes and takes minutes. Most clerks are elected by the Town Meeting.

*What is a town counsel?*

The town counsel is a lawyer who either works for the town as an employee, or is a private lawyer who counts the town among his or her clients. The town counsel often prepares the warrant (the Town Meeting's agenda). During the Town Meeting, the town counsel answers legal questions that come up. He is she is appointed by the selectmen.

*What are ex officio members?*

Ex officio (pronounced "o-fish-ee-o") members of a representative Town Meeting are granted membership because of the office they hold. For example, a town's by-laws might state that selectmen are ex officio members of the Town Meeting. That means that selectmen do not have to run for election as Town Meeting Members; they are already members because they have been elected to the office of selectmen.

## COMMITTEES

***What's a select committee?***

A select committee is assigned to investigate and report back to the Town Meeting on a certain subject, or to undertake a certain substantive task. The moderator frequently appoints its chairperson and members. Select committees are also called special committees.

***What's a standing committee?***

A permanent committee. A Town Meeting might have standing committees for the following areas: public works, planning and zoning, recreation, and personnel. The most important standing committee is the finance committee.

***What does the finance committee do?***

The finance committee prepares the budget in the months before the annual Town Meeting starts. It also prepares financial articles (which are agenda items). Its recommendations are advisory. In some towns, the committee is known as the warrant committee or the advisory committee.

Depending on a town's by-laws, members of the finance committee are appointed by the selectmen or moderator, or elected by voters or the Town Meeting. In many towns, the finance committee's report is distributed to all residences.

## ANNUAL AND SPECIAL TOWN MEETINGS

***What's the difference between annual and special meetings?***

Each town must hold an annual Town Meeting. Additional Town Meetings are called special meetings. They may be called as many times during the year as necessary.

***When are Town Meetings?***

Most annual Town Meetings are in February or March. But they may be as late as April, May, or June. It depends on the town's by-laws. The Board of Selectmen or Town Council may delay the annual meeting, but it must be completed by June 30.

***What does it mean when a Town Meeting is divided into an election and a business meeting?***

Most towns elect officers on one day, and begin conducting other business on a later day. Many towns wait a week or more between the election of officers and the business meeting. A

few towns elect officers as early as November or December of one year, and conduct the business meeting in the next year.

***What does it mean that some towns have two business meetings?***

In addition to the possibility that a town divides its Town Meeting into an election and a business meeting, a town may further divide its business meeting into two meetings. Towns that do so hold one business meeting at the beginning of the year. The focus is primarily on the budget, finances, and taxes. The second business meeting is held in October. It is still part of the annual Town Meeting. The focus is on zoning, planning, and by-laws.

---

In sum....

November and December: Some towns hold elections.

January, February, March, April, May, June: Some towns that held elections in November and December hold business meetings. Some towns hold both elections and business meetings.

October: Some towns hold second business meetings.

---

***How do I find out when the annual meeting will take place?***

Watch your local newspaper. Signs are posted around some towns. In some towns, every citizen is notified at home. And you may always call town hall, ask for the clerk's office, and ask when the annual meeting will take place.

***How do I find out about special meetings?***

Special meetings, by their very nature, are not held at the same time every year. Watch your local newspaper and watch for signs posted around some towns. Some towns will notify you at home.

***Who calls special Town Meetings?***

Generally, the selectmen.

***May voters call a special Town Meeting?***

Yes. Two hundred registered voters of the town may request a special Town Meeting. If a town has fewer than 1,000 registered voters, then 20% of the total number of registered

voters may do so.

***What's the procedure for voters calling a special Town Meeting?***

The requisite number of voters must sign a written request for a special Town Meeting. The format of the written request is flexible. Voters should include their addresses after their signatures.

Voters deliver the written request to the Board of Selectmen. The Board of Selectmen must then call a special meeting within 45 days.

***May a special Town Meeting be called for more than one reason?***

Yes. For example, a special Town Meeting could be called to consider amending the zoning code and buying a new fire truck.

## THE WARRANT

***What's a warrant?***

The warrant lists a meeting's time, place, and agenda. A warrant is also known as a warning. A Town Meeting's action is not valid unless the subject was listed on the warrant.

***When is the warrant available?***

At least 7 days before an annual meeting, and at least 14 days before a special meeting.

***How do I see the warrant?***

It depends on your town. Warrants are posted in public places, published in the local newspaper, delivered to every residence, or a combination of all three.

***Who makes up the warrant?***

The selectmen, who "issue" it.

***What are articles?***

Items on the warrant. Article 1 is usually to elect officers to various offices. Article 2 is usually to hear reports from town officers. Appropriations for each town function or department may be in separate articles. Or one article on the warrant may propose appropriations for all necessary town expenses.

*May voters place articles on the warrant?*

Yes. Voters may "insert" articles in the warrant. They have to do it before selectmen "close" the warrant.

To insert an article in the warrant for an annual Town Meeting, at least 10 registered voters of the town must sign a written request. The format of the written request is flexible. Voters do not have to include their addresses after their signatures, but it is a good idea.

If you want a sample of an article to use to draft your article, go to town hall and ask for a copy of the annual report. It will have warrants from the previous year's Town Meeting, which you can use as samples. For further assistance, contact the town clerk or town counsel.

Citizens may insert an article in the warrant for a *special* Town Meeting by the same procedure they may use to call a special Town Meeting. (See page 7.)

## HOW TOWN MEETINGS OPERATE

*What is the quorum for a Town Meeting?*

In an open Town Meeting, the minimum number of voters who may conduct business is established by the individual town's by-laws. The quorum in some towns is zero; if only a single citizen appears, the Town Meeting may start and conduct business.

In a representative Town Meeting, a majority of the Town Meeting Members may conduct business.

*Who may attend?*

All of a town's registered voters may attend, whether the Town Meeting is open or representative. Non-voters may attend at the discretion of the moderator or Town Meeting, depending on the town's by-laws.

*Who may speak?*

All of a town's registered voters may speak in an open or representative Town Meeting. A voter does not need to be a Town Meeting Member to speak at a representative Town Meeting.

Non-voters may speak at the discretion of the moderator or Town Meeting.

*Who may vote?*

In an open Town Meeting, the town's voters may vote.

In a representative Town Meeting, the town's voters may vote for officers and Town Meeting Members. Only Town Meeting Members may vote on business matters.

*Is the warrant the agenda?*

Yes. The warrant generally states the things to be voted on, but the moderator may interpret the articles liberally.

Usually, the Town Meeting considers the warrant's articles in order. However, the moderator or Town Meeting itself may change the order. Some towns decide the order of warrants by lottery.

*How do I know which article the Town Meeting is considering?*

The moderator summarizes each article or reads it entirely before starting debate.

*How is the budget considered?*

Different towns handle the budget article differently. Towns have three general ways.

**First way**: The moderator does the following: reads a budget item; calls for a recommendation from the finance committee on that item; calls for debate on that item; and calls for a vote on that item. Then the moderator does the same with the next budget item.

**Second way**: The moderator reads each budget item, but doesn't stop for debate. If a voter wants to debate an item, he or she calls out, "Hold!," or a similar word, depending on the Town Meeting. The moderator will "lay aside" that item, and get back to it later. After reading all budget items, the moderator calls for a vote on all items that were not laid aside. Then the moderator takes up budget items that were laid aside. The moderator calls for debate, possible amendments, and a vote on each item.

**Third way**: The moderator summarizes the budget article. The chairman of the finance committee moves that the Town Meeting appropriate the money recommended in the finance committee's report. Then the moderator entertains motions to amend the budget article. When the Town Meeting has voted on all amendments, the Town Meeting votes on the finance chairman's motion as originally presented or amended.

## PARTICIPATING IN TOWN MEETING

*How do I vote?*

Voters in open Town Meeting vote by various methods.

**Voice vote**. Many Town Meeting votes are by voice. The moderator asks that all in favor (everyone voting "yes") say, "Yea" (which is pronounced "yay"). Then the moderator asks that all opposed (everyone voting "no") say, "Nay." The moderator listens and decides which side prevailed.

Voters who are unfamiliar with the difference between "yea" and "nay" may find this reminder useful: "Yea" and "yes" both start with "y." "Nay" and "no" both start with "n."

**Show of hands**. The moderator asks that all in favor raise their hands. Then the moderator asks that all opposed raise their hands. The moderator looks at the number of hands in general and decides which side prevailed. Or hands are counted.

**Roll call**. Voters are called by name and answer "Yea" or "Nay."

**Standing vote or rising vote**. All in favor are asked to stand or rise. They are counted. Next, all voters who are opposed are asked to stand. They are counted. This form of vote is also known as **dividing the meeting**.

**Secret ballots**. When voters vote by secret ballot is determined by a town's by-laws. In some towns, the moderator can call for a secret ballot. In some towns, if a certain number of voters request it, a vote will be by secret ballot. In other towns, a vote will be by secret ballot if 25% percent of the voters present and voting ask for it.

*Does a representative Town Meeting use the same methods of voting?*

Yes. However, a representative Town Meeting can take a vote by secret ballot only if 2/3 of the Town Meeting Members present and voting approve it.

*Are there votes that cannot be taken by voice?*

Yes. Suppose that a town's by-laws require that 2/3 of the voters, not a simple majority, vote to approve the budget for it to pass. Unless the voice vote is unanimous in favor of the budget, the moderator will find it hard to determine if more 2/3 of the voters said "yea." A vote requiring a super-majority (more than a simple majority) is usually decided by a vote other than voice vote.

***What if I think that the moderator did not decide correctly a voice vote or an informal show of hands?***

Stand and say one of the following: "I doubt it," "I doubt the vote," or "I question it." If at least six other voters stand with you, the moderator must count votes more formally.

***How do I speak in debate?***

If you wish to speak, stand up and wait for the moderator to acknowledge you. When the moderator acknowledges you, state your name, your precinct if you know it, and your address.

Speak about the topic being discussed. Don't speak about a previous topic (unless there is a motion to rescind or reconsider).

Make your comments to the moderator, not to the Town Meeting or individual Town Meeting Members.

For example, do not say, "I have something to say to the Town Meeting," or "Mr. Black, you said something as a Town Meeting Member that I want to respond to." Instead, say something like, "Ms. Moderator, these are my thoughts on this article."

You may attack a previous speaker's *argument*, but do not attack a previous speaker. For example, do not say, "The previous speaker is dead wrong." Instead, say something like, "I disagree with the argument we just heard."

Try to avoid referring to previous speakers by name. For example, try not to say, "I agree with Mr. White's argument." Instead, say something like, "I agree with the argument that we can afford this budget item."

Since you make your comments to the moderator, you may not directly debate or ask questions of a previous speaker. For example, do not say, "Mr. Brown, you say that we should make another exception to the zoning law. I'm asking you: When do we draw the line and stop making exceptions?"

Instead, say something like, "Mr. Moderator, we have heard the argument that we should make just one more exception to the zoning law. But I say it's time to stop making exceptions."

## PROCEDURE AND MOTIONS

***Do I need to know "parliamentary" procedure to attend a Town Meeting?***

No. The moderator will take care of it.

***If I want to find out about Town Meeting procedure and motions, how do I do it?***

Get a copy of *Town Meeting Time: A Handbook of Parliamentary Law*, by Richard B. Johnson, Benjamin A. Trustman, and Charles Y. Wadsworth. Check your library. If you want your own copy, contact the publisher, Robert E. Krieger Publishing Co., Krieger Drive, Malabar, FL 32950. The price is $21.50 and $5.00 for shipping.

***Are Town Meetings run according to Roberts' Rules of Order?***

Some are; some are not. Some Town Meetings use *Town Meeting Time: A Handbook of Parliamentary Law.*

***Does the majority always rule?***

No. Sometimes a super-majority (more than a simple majority) is needed for votes on some specific issues. For example, taking land by eminent domain for some purposes requires a 2/3 vote.

***Are a town's by-laws the final word on how the Town Meeting runs?***

No, by-laws may be suspended in some circumstances. A town's by-laws themselves explain how to suspend them. It might require a 2/3 vote or a unanimous vote to suspend a provision in the by-laws.

***Are the moderator's rulings final?***

In some areas, yes. In other areas, it is unclear whether a moderator's ruling can be appealed. It depends on the practice of the moderator and Town Meeting. In Town Meetings where a moderator's rulings are appealed, here is the usual procedure.

A voter or Town Meeting Members makes a point of order. The moderator rules on the point of order. A voter or Town Meeting Member then says, "I appeal from the ruling of the moderator / chair." Someone else seconds the appeal. The moderator then announces a vote on the question, "Should the decision of the moderator be reversed?"

***What do the following terms mean?***

| **The term...** | **means** |
|---|---|
| dismiss an article | to defeat it |
| postpone an article indefinitely | to defeat it |
| take no action on an article | to defeat it |
| lay the question on the table | to kill or postpone (depending on the town) a measure |
| table the question | to kill or postpone (depending on the town) a measure |
| move the previous question | to cut off debate and vote on the issue at hand |

***What does a motion to take from the table mean?***

Tabling a motion or laying a question on the table generally means to kill it, but it does not mean to kill it finally. To take an issue from the table means to consider an issue that the Town Meeting previously tabled.

***If I'm not familiar with making motions, how do I make one?***

Rather than make a motion that may require the moderator to untangle and decode it, stand up and ask the moderator from the floor how to make a motion to achieve what you want to do.

***How do I call for a vote?***

Move the previous question, which means to call for a vote. Under the by-laws of many towns, you must make certain motions, such as those involving money, in writing.

***What's the difference between reconsideration and rescission?***

A vote to reconsider a previous vote temporarily postpones final action on that vote. A vote to rescind a previous vote cancels it.

***What's the difference among adjourning, recessing, and dissolving?***

**Dissolving** the Town Meeting means that it is over until the next Town Meeting, which must be called by a new warrant. If the Town Meeting has not dissolved, but is taking a break, and will resume on the same day, it has **recessed.**

"**Adjourning**" is an imprecise word. It is sometimes used to mean "dissolving"; sometimes "recessing"; and sometimes that one day of the Town Meeting has ended, and that the Town Meeting will resume on a later day.

*What does it mean to adjourn without day?*

Adjourning without day means that the Town Meeting has dissolved. Adjourning without day is also called adjourning sine day (pronounced "sī-nee day" or "sī-nee die"). In other words, the Town Meeting has adjourned without setting another day to reconvene. A new warrant is needed to reconvene.

## AFTER THE REPRESENTATIVE TOWN MEETING DISSOLVES

*Do I have control over the votes of Town Meeting Members?*

Generally, yes. In some towns, the votes of representative Town Meetings do not take effect until a certain number of days after the Town Meeting expires. In other towns, only votes on certain subjects do not take effect immediately.

In all towns, votes on the following subjects do not take effect for seven days, not counting Sundays and holidays: special appropriations of $20,000 or more; establishing, abolishing, or merging town boards or offices; establishing a term of office for town officers; changing the number of a town board's members; and amending the by-laws.

To try to overturn decisions described in the previous paragraph, voters may circulate petitions within seven days after Town Meeting dissolved. The petition must be signed by at least 3% of the town's voters, with their names and addresses.

To try to overturn other decisions by a representative Town Meeting, voters should check their respective towns' by-laws.

Petitions to overturn representative Town Meeting decisions go to the Board of Selectmen. The Selectmen then schedule an election at which the following question appears on the ballot: "Should the town vote to approve the action of the representative Town Meeting whereby it was voted [brief description of the vote]?" Voters go to the polls and vote yes or no.

For more details, look at your town's by-laws and the Massachusetts General Laws, chapter 43A, section 10.

## FINDING OUT MORE

*Where do I find the statutes governing Town Meetings?*

Go to your local library. Ask to see the Massachusetts General Laws, chapters 39 and 43A. Parts of other chapters apply to Town Meetings, but chapters 39 and 43A are the major

ones.

***Where do I get my town's by-laws?***

Call your town hall and ask the clerk's office. When you ask for the by-laws, also ask if the Massachusetts Legislature has passed any law that applies specifically to your town.

***Where do I get my town's charter?***

Ask the clerk's office.

***Can I see a video of a previous Town Meeting?***

Some towns videotape their Town Meetings. If you want to get a sense of a Town Meeting before you attend, find out if a videotape exists. Contact the town clerk's office, your local library, or your local cable television company.

***Is there anything else I should get?***

Some towns publish policies or guidelines, similar to this primer. In some towns, it is part of the warrant or of the finance committee's report. In other towns, the local newspaper publishes such a primer as a newspaper article. In still other towns, the local League of Women Voters publishes a primer.

## CONCLUSION

Each town has a different way of running its Town Meeting. Sometimes the customs and traditions are written down; sometimes they are not. This primer is designed to make you comfortable enough to find out more. The best way to find out more is to attend your Town Meeting.

## BIBLIOGRAPHY

Massachusetts General Laws, chapters 39 and 43A

*Town Meeting Time: A Handbook of Parliamentary Law*, Richard B. Johnson, Benjamin A. Trustman, Charles Y. Wadsworth, 2nd ed., Robert D. Krieger Publishing Co. (Malabar, Fla. 1984)

*Your Massachusetts Government*, Donald Levitan, Elwyn E. Mariner, 10th ed., Government Research Publications (Newton Centre, Mass. 1984)

*Manual for New Moderators*, Massachusetts Moderators Association, 2nd ed. (1995)

## ACKNOWLEDGMENTS

The author acknowledges the kind and invaluable assistance of Douglas D. Nichols, Esq. and Ralph C. Copeland, Esq.

## THE AUTHOR

Kenneth Bresler is a lawyer who lives in Newton, Massachusetts. He wrote *Citizen's Guide to Drafting Legislation*, which the Secretary of State publishes.

January 1996